IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.955 OF 2004

(U/s 34 of Prevention of Terrorism Act, 2002)

WITH

CRIMINAL APPLICATION NO.3360 OF 2004

Saquib Abdul Hameed Nachan. ... ... Appellant
(Orig.Accused N.1)

v/s.

The State of Maharashtra. ... ... Respondent
(Orig.Complainant)

Mr.H.A. Solkar with Mr.Mubin H. Solkar for Appellant.

Ms.P.H.Kantharia, APP with Mrs.U.V.Kejariwal, APP for State.

CORAM : H.L. GOKHALE &

SMT.V.K.TAHILRAMANI, JJ.

DATED : 3rd September 2004

P.C.:

1. Heard Mr.H.A.Solkar with Mr.Mubin H. Solkar for the Appellant. Ms.Kantharia, APP appears with Mrs.Kejariwal, APP for the Respondent.

2. This Appeal is filed to challenge the order passed by the Special Court, Mumbai, on Miscellaneous Application No.58 of 2004 in POTA Special Case No.2 of 2003. The learned Judge, by an order dated 13th May 2004, took the view that he had no jurisdiction to decide that Application inasmuch as it sought a direction for investigation by C.B.I. into an encounter which took place on 29th March 2003. Mr.Mubin Solkar, learned Counsel appearing for the Appellant states that though this Appeal is filed challenging that order, he is accepting the view of the learned Judge that he did not have jurisdiction to decide that Application and, therefore, has filed a separate Writ Petition being Criminal Writ Petition No.1742 of 2004.

3. In view of the filing of that Writ Petition viz. Criminal Writ Petition No.1742 of 2004, Mr.Solkar is not pressing this Appeal viz. Criminal Appeal No.955 of 2004 as also the Criminal Application being Criminal Application No.3360 of 2004, which has been moved therein. The Appeal as well as the Criminal Application are dismissed as withdrawn.

(H.L. GOKHALE, J.)

(V.K.TAHILRAMANI, J.)